

**CONSENT AND ESTOPPEL AGREEMENT WITH RESPECT TO THE  
DEVELOPMENT AGREEMENTS (AS AMENDED FROM TIME TO TIME) BETWEEN  
THE CITY OF LA CROSSE, THE REDEVELOPMENT AUTHORITY OF THE CITY  
OF LA CROSSE, AND OPTUM SERVICES, INC. AS ASSIGNEE TO RIVERSIDE  
CENTER, LLC, RIVERSIDE CENTER II, LLC  
AND RIVERSIDE CENTER III, LLC**

This Consent and Estoppel Agreement with respect to the Development Agreements (as amended from time to time) (“**Agreement**”) is executed by and among the City of La Crosse, Wisconsin, a Wisconsin municipal corporation with offices located at 400 La Crosse Street, La Crosse, Wisconsin, 54601 (the “**City**”), the Redevelopment Authority of the City of La Crosse, a Wisconsin public body corporate with offices located at 400 La Crosse Street, La Crosse, Wisconsin, 54601 (the “**Authority**”), and Optum Services, Inc., a Delaware corporation with offices located at 9900 Bren Road East, Minnetonka, MN 55343, Attn: Lease Administration – MN008-W310 (“**Optum**”) with respect to the project commonly known as Riverside Center located in La Crosse, Wisconsin on the property legally described on Exhibit A attached hereto (the “**Project**”).

1. Certifications by City and Authority. Optum is requesting the following estoppel certifications on behalf of itself and/or its successors, assigns, nominees, designees, and buyers of it or the Project or any portion thereof. The City and Authority each acknowledges and agrees that such parties will be relying on these estoppel certifications in entering into certain transactions related to the Project. Accordingly, the City and Authority each hereby certifies to its actual knowledge the following to Optum and such parties as of the date hereof:

- A. there are no defaults under the Development Agreements (as such term is defined in Section 4.2 below) and no events exist that, with either or both the giving of notice or the passage of time, would result in a default under the Development Agreements;
- B. Optum has satisfied all of its obligations under the Development Agreements due and owing as of the date hereof;
- C. the Phase I Development Agreement (as such term is defined in Section 4.2(a) below) expires on June 30, 2031;
- D. the total aggregate amount of the Monetary Obligation payable by the City under the Development Agreements is \$223,106.90 and is due on December 31, 2016;
- E. the City agrees that all building construction and other physical improvements required to be completed by the developer under the Development Agreements are complete and in compliance with the terms of the Development Agreements;

- F. the Development Agreements represent the entire agreement between the parties thereto with respect to the Project;
- G. there are no existing defenses or offsets, claims or counterclaims which either or both the City or Authority has against the enforcement of the Development Agreements;
- H. the Project is located within the boundary set forth in La Crosse Mun. Code § 115-393 (formerly the second paragraph of Section 15.04(G)), of the City zoning code (a copy of which is attached hereto as Exhibit B), and is therefore subject to the terms of the same and exempt from the off-street parking requirements;
- I. that a certain Lease, executed March 29, 2006, between City and Riverside Center (the “**Parking Lease**”), for the lease of a parking lot immediately north of the 328 Front Street South, La Crosse, WI, which parking lot is more particularly described in the Parking Lease, is in full force and effect and the City hereby ratifies and affirms its obligations set forth therein;
- J. the Parking Lease expires on July 31, 2033;
- K. there is no default under the Parking Lease, and no events exist that, with either or both the giving of notice or the passage of time, would result in a default under the Parking Lease;
- L. the parking rights set forth in Article XII, Section 4 of the Phase II Development Agreement (as defined in Section 4.2(b) below) apply to all City-owned parking ramps within six (6) blocks of the Project covered by the Phase II Development Agreement, as the same existed on April 24, 2007, and the fifteen (15) year period set forth in Article XII, Section 4 of the Phase II Development Agreement expires on April 23, 2022;
- M. the term of the Phase II Development Agreement expires on June 30, 2031;
- N. the total liquidated damages payable by the developer under the Development Agreements in the amount of \$2,750,000 has been paid in full and no liquidated damages are currently due and payable under the Development Agreements. The City and the Authority confirm that any obligation to pay liquidated damages under the Development Agreements is a personal obligation of the Original Developer (as such term is defined in Section 4.1 below) and is not binding upon any successors-in-interest;
- O. the term of the Phase III Development Agreement (as defined in Section 4.2(c) below) expires on June 1, 2030;
- P. all of the conditions with respect to the commencement and completion of the construction of the Project as set forth in Article IV of the Phase I Development

Agreement, Article IV of the Phase II Development Agreement and Article II of the Phase III Development Agreement, failure of which could trigger the reversion options in favor of the City or the Authority under the Development Agreements, have been fully performed and satisfied in full, and accordingly the City and Authority acknowledge and agree that all reversion options granted under the Development Agreements are permanently terminated, null and void;

- Q. the City's obligation to disburse a \$750,000 lump sum cash grant under Section 3.1 of the Phase III Agreement has been performed and satisfied in full;
- R. in addition to the uses permitted under the Development Agreements, the Project may be used for office purposes by any party, including, without limitation, United HealthCare Services, Inc. and its successors and assigns; and
- S. the jobs creation requirements contained in the Development Agreements requires the creation of at least 2,000 jobs at the Project by December 31, 2016. Additionally, as of the date hereof, Optum has complied with the jobs reporting requirements under the Development Agreements through the date of this Agreement.
- T. notwithstanding any other provisions of this Agreement, the Developer's performance under the Phase III Development Agreement is deficient in tax year 2016 with regard to its compliance with the guaranteed assessed value as found in Section 2.6. Accordingly, a Deficiency PILOT will be owed on March 31, 2017, which would be calculated as approximately \$36,593.11. More specifically, this Deficiency PILOT is calculated by taking the guarantee assessed value of \$18,000,000 less the actual value of \$16,743,800 for tax year 2016, which results in a deficiency of \$1,256,200 of guaranteed value. The current mill rate for tax year 2015 is approximately 0.02913, which results in an estimated \$36,593.11 Deficiency PILOT. The actual mill rate for tax year 2016 will be determined by the City in November 2016 and therefore the payment identified in this paragraph is subject to change. Compliance for future tax years cannot be determined at this time.

2. Certifications by Optum. The City and Authority are requesting the following estoppel certifications on behalf of themselves and/or their respective successors, assigns, nominees and designees. Optum acknowledges and agrees that such parties will be relying on these estoppel certifications. Accordingly, Optum certifies to its actual knowledge the following to the City and Authority and such parties as of the date hereof:

- A. there are no defaults under the Development Agreements, and no events exist that, with either or both the giving of notice or the passage of time, would result in a default under the Development Agreements;
- B. the City and Authority have each satisfied all of their obligations under the Developments Agreements due and owing as of the date hereof;

- C. the Phase I Development Agreement expires on June 30, 2031;
- D. the total aggregate amount of Monetary Obligation payable by the City under the Development Agreements is \$223,106.90 and is due on December 1, 2016;
- E. Optum agrees that all improvements required to be made by the City and/or Authority under the Development Agreements are complete;
- F. the Development Agreements represent the entire agreement between the parties thereto with respect to the Project;
- G. there are no existing defenses or offsets, claims or counterclaims which Optum has against the enforcement of the Development Agreements;
- H. the Parking Lease is in full force and effect and Optum hereby ratifies and affirms its obligations set forth therein;
- I. the Parking Lease expires on July 31, 2033;
- J. there is no default under the Parking Lease, and no events exist that, with either or both the giving of notice or the passage of time, would result in a default under the Parking Lease;
- K. the parking rights set forth in Article XII, Section 4 of the Phase II Development Agreement apply to all City-owned parking ramps within six (6) blocks of the Project covered under the Phase II Development Agreement, as the same existed on April 24, 2007, and the fifteen (15) year period set forth in Article XII, Section 4 of the Phase II Development Agreement expires on April 23, 2022.
- L. the term of the Phase II Development Agreement expires on June 30, 2031;
- M. the term of the Phase III Development Agreement expires on June 1, 2030.
- N. the City's obligation to disburse a \$750,000 lump sum cash grant under Section 3.1 of the Phase III Agreement has been performed and satisfied in full;
- O. the jobs creation requirements contained in the Development Agreements requires the creation of at least 2,000 jobs at the Project by December 31, 2016. Additionally, as of the date hereof, Optum has complied with the jobs reporting requirements under the Development Agreements through the date of this Agreement.

3. Consent by the City and the Authority. To the extent required under the Development Agreements, both the City and Authority hereby consent to (A) the transfer of the Project and assignment of Optum's interest in the Development Agreements and Parking Lease

to LCN UHS La Crosse (WI) LLC (“LCN”), (B) any future transfer of the Property and assignment of the Development Agreements and Parking Lease to a successor entity and any successor and/or assign of such successor entity (each a “**Successor Owner**”), so long as (i) such ownership by such Successor Owner would not render any part of the Project exempt from property taxation, unless such Successor Owner first executes a written agreement satisfactory to the City Attorney and the Board of Public Works providing for payments in lieu of taxes to the City and (ii) Developer provides written notice of intent to transfer or assign to the City and Authority at least forty-five days before the transfer or assignment; and (C) any mortgage financing of the Project, including the financing to be provided by Deutsche Bank AG, New York Branch in connection with LCN’s acquisition of the Project. The City and the Authority acknowledge that LCN and Deutsche Bank AG, New York Branch and their successors and assigns will be relying on the provisions and certifications set forth in this Agreement.

#### 4. Defined Terms.

4.1 Under this Agreement, the term “**Original Developer**” means collectively (i) Riverside Center, LLC, (ii) Riverside Center II, LLC, and (iii) Riverside Center III, LLC.

4.2 Under this Agreement, the term “**Development Agreements**” means collectively (i) the Phase I Development Agreement (as defined in subsection (a) below), (ii) the Phase II Development Agreement (as defined in subsection (b) below) and (iii) the Phase III Development Agreement (as defined in subsection (c) below). Capitalized terms used herein and not defined shall have the meaning ascribed to such term in the applicable Development Agreement.

The “**Phase I Development Agreement**” means collectively the following documents:

- (i) Redevelopment Agreement between the City, the Authority and Riverside Center, LLC (“**RC**”) dated July 1, 2004, Resolution #2004-04-032, recorded May 31, 2005 as Document No. 1422545;
- (ii) Amended Redevelopment Agreement between the City, the Authority, and RC dated April 14, 2005, Amended Resolution #2005-04-043, recorded August 15, 2007 as Document No. 1482531;
- (iii) Second Amendment to the Redevelopment Agreement between the City, the Authority, and RC, dated May 12, 2005, Resolution #2005-05-19, recorded August 15, 2007 as Document No. 1482530;
- (iv) Third Amendment to the Redevelopment Agreement between the City, the Authority and RC, dated April 27, 2010; Resolution #2010-04-053, recorded July 30, 2010 as Document No. 1554621;
- (v) Fourth Amendment to the Redevelopment Agreement between the City, the Authority of and RC, approved by the Common Council on July 2, 2014, but never signed by Riverside

Center LLC, Resolution #14-0797. The Fourth Amendment's reference in this section is only included for future tracking and reference purposes and is not included within the definition of "Development Agreements" for purposes of this document;

(vi) Fifth Amendment to the Redevelopment Agreement between the City, the Authority and RC, dated September 11, 2014, recorded September 16, 2014, as Document No. 1645322, Resolution #14-1052; and

(vii) Sixth Amendment to the Redevelopment Agreement between the City, the Authority and Optum Services, Inc., as assignee of Riverside Center, LLC, dated February 11, 2016, recorded March 8, 2016, as Document No. 1671008.

The "**Phase II Development Agreement**" means collectively the following documents:

(i) Riverside Center II, LLC - Phase II Development Agreement between the City, the Authority and Riverside Center II, LLC ("**RC II**") dated April 19, 2007 Resolution #2007-04-069, recorded May 15, 2007 as Document No. 1474123;

(ii) First Amendment to Riverside Center II, LLC Phase II Development Agreement between the City, the Authority and RC II, dated April 10, 2008, Resolution #2008-03-024; recorded May 12, 2008 as Document No. 1501807;

(iii) Second Amendment to Riverside Center II, LLC- Phase II Development Agreement between the City, the Authority and RC II dated April 23, 2009, recorded June 3, 2009 as Document No. 1527907;

(iv) Third Amendment to Riverside Center II, LLC - Phase II Development Agreement between the City, the Authority and RC II dated May 25, 2010, Resolution #2010-04-054, recorded July 30, 2010 as Document No. 1554620;

(v) Fourth Amendment to Riverside Center II, LLC- Phase II Development Agreement approved by Common Council July 2, 2014 but never signed by Riverside Center II, LLC., Resolution #14-0797. The Fourth Amendment's reference in this section is only included for future tracking and reference purposes and is not included within the definition of "Development Agreements" for purposes of this document;

(vi) Fifth Amendment to the Riverside Center II, LLC - Phase II Development Agreement between the City, the Authority and RC II, dated September 11, 2014, Resolution #14-1052; recorded September 16, 2014 as Document No. 1645319;

(vii) Corrective Fifth Amendment to the Riverside Center II, LLC - Phase II Development Agreement between the City, the Authority and RC II, dated December 5, 2014, recorded December 9, 2014, as Document No. 1649152; and

(viii) Sixth Amendment to the Riverside Center II, LLC- Phase II Development Agreement between the City, the Authority and Optum Services, Inc., as assignee of Riverside Center II, LLC, dated February 11, 2016, recorded March 11, 2016 as Document No. 1671203.

The “**Phase III Development Agreement**” means collectively the following documents:

(i) Riverside Center Development Agreement (Phase 3) between the City, the Authority and Riverside Center III, LLC (“**RC III**”) dated March 12, 2009, Resolution #2009-03-025, Resolution #2009-03-025, recorded May 7-2009 as Document No. 1525652;

(ii) Amended and Restated Riverside Center Phase 3 Development Agreement between the City, the Authority and RC III, dated April 27, 2010, Resolution #2010-04-055, recorded July 30, 2010 as Document No. 1554622;

(iii) First Amendment to the Amended and Restated Riverside Center Phase 3 Development Agreement approved by Common Council July 2, 2014 but never signed by Riverside Center III, LLC. The First Amendment’s reference in this section is only included for future tracking and reference purposes and is not included within the definition of “Development Agreements” for purposes of this document.

(iv) Second Amendment to the Amended and Restated Riverside Center Phase 3 Development Agreement between the City, the Authority and RC III, dated September 11, 2014, recorded September 16, 2014, as Document No. 1645320; and

(v) Third Amendment to the Amended and Restated Riverside Center Phase 3 Development Agreement between the City, the Authority and Optum Services, Inc., as assignee of Riverside Center III, LLC, dated February 11, 2016, recorded on March 11, 2016, as Document No. 1671204.

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STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, on behalf of the \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal

\_\_\_\_\_  
Notary Public  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, on behalf of the \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal

\_\_\_\_\_  
Notary Public  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROJECT**

#### **Phase I:**

##### **328 Front Street**

Lot 1 of La Crosse County Certified Survey Map filed in Volume 12, on Page 76, as Document No. 1423251, La Crosse County, Wisconsin

Tax ID No.: 17-20025-61

#### **Phase II:**

##### **332 Front Street**

Lot One (1) of Certified Survey Map No. 54 recorded in Volume 15 of Certified Survey Maps, pages 54 and 54A as Document No. 1578556, being a part of Lot 3, of Certified Survey Map in Volume 12, pages 76 and 76A, being Lots 1, 2, 3 and part of Lot 4 in Block 2 in Dunn, Dousman & Cameron's Addition to the City of La Crosse and being part of Government Lot 1, Section 6, Township 15 North, Range 7 West, located in the City of La Crosse, La Crosse County, Wisconsin.

Tax ID No.: 17-20025-56

#### **Phase III:**

##### **102 Jay Street**

Lot One (1) of La Crosse County Certified Survey Map filed in Volume 15, on Page 45, as Document No. 1574251, La Crosse County, Wisconsin.

Tax ID No.: 17-20026-55

## Exhibit B

### Section 115-393 of the City of La Crosse Zoning Code

Beginning at the southwest corner of La Crosse Street and 7th Street; thence southerly along the west line of 7th Street to the north line of Cass Street; thence westerly along said north line to the west line of Second Street; thence northerly along said west line to the south line of the Harborview Area; thence westerly along said south line to the Mississippi River east bank; thence northerly along said east bank to the La Crosse River; thence northeasterly along the river to a point where 7th Street if extended would intersect; thence south along the west line of 7th Street extended to the point of beginning, and;

Beginning at the intersection of the southerly right-of-way line of St. James street and the southerly extended alley centerline of Block 19 of the North La Crosse Addition; thence north across St. James Street and along the centerlines and extensions thereof of alleys in Blocks 19, 12, 9 and 2 of the North La Crosse Addition; thence continue north along the centerlines of alleys in Blocks 3 and 6 of Northern Addition to the easterly extended line of Lot 9, Block 6 of the Northern Addition; thence west to the northeast corner of said Lot 9 of Block 6; thence continuing west along the north line of Lot 9 to the northwest corner of Lot 9 also being a point on the east right-of-way line of Caledonia Street; thence south along the east right-of-way line of Caledonia Street to a easterly extended line six feet south of the north line of Lot 13, Block 7 of the Northern Addition; thence west parallel to the north line of said Lot 13 to the west right-of-way line of Caledonia Street; thence continue west parallel to said north line of Lot 13 to the centerline of the alley in Block 7 of said Northern Addition; thence south along the centerlines and extensions thereof of alleys in Block 7 and 2 of Northern Addition; thence continue south along the centerlines and extensions thereof of alleys in Blocks 3, 8 and 13 of the North La Crosse Addition and continuing south to the south right-of-way line of Wall Street; thence east along the south line of Wall Street to the west right-of-way line of Caledonia Street; thence south along said west right-of-way line of Caledonia Street to the south right-of-way line of St. James Street; thence east along the south right-of-way line of St. James Street to the point of beginning. The properties located within this boundary must have a C1-Local Business, C2-Commercial, or C3-Community Business zoning and have dedicated commercial space on the ground floor in order to be exempt from the off-street parking requirements. Subsection (g) of this section is not waived for the area described in this subsection.